

Title: Compliance Investigations

Purpose

Program compliance is mandatory to operate an efficient and effective program.

Authority

7 CFR 246.12 (j)(4)

Policy

It is the policy of the Montana WIC Program that compliance investigations be used to evaluate high-risk WIC retailers, as defined in Policy 9-21. A minimum of five (5) percent of all authorized WIC retailers will receive a compliance investigation annually. These retailers will be identified as having high risk criteria. If less than 5% of retailers are categorized as high risk, the balance will be randomly selected.

I. Compliance investigations

- A. Compliance investigations shall be accomplished by conducting either an:
 - 1. Inventory audit - an overt on-site comparison of the retailer's inventory to WIC purchases within a specified time period. Retailers are required by their WIC agreements to maintain their inventory records for a minimum period of three (3) years; or a
 - 2. Compliance purchase - a covert WIC purchase. Compliance purchases will be performed in a series to verify Program abuse by the retailer.

II. Compliance Purchase

- A. A compliance purchase is defined as a covert purchase made with WIC benefits by WIC staff or their contracted designee. The purchase is made without the knowledge of the retailer's management or staff.
- B. Criteria
 - 1. The Montana WIC Program shall decide whether any type of purchase investigation will be performed prior to authorizing such investigations, and whether an educational purchase may precede a compliance purchase.
 - 2. The decision will be based on the type of violation, statistical and financial significance of the violation and criteria for investigations.
- C. Procedure
 - 1. The compliance investigator will review the retailer's file and become familiar with any problems with the retailer.
 - 2. Training and education will be provided by the State Agency to the investigator prior to the compliance purchase. The training will include:
 - a. Not to invoke sympathy or try in any way to convince or coerce the cashier to allow any possible non-authorized foods to be purchased;
 - b. The fact they may be embarrassed and if the situation does become embarrassing or hostile, leave the store immediately;
 - c. Exactly what to purchase, and the procedures for cashing a WIC benefit;

- d. The investigator assigned to the case will complete as much of the Compliance Investigation Form as possible prior to the visit to the retailer;
 - e. The investigator will be issued a WIC ID packet by the State Agency along with WIC benefits. These benefits will be computer generated and copies of the benefits will be attached to the Compliance Investigation Form.
3. The investigator will drive to the retailer's place of business. The investigator observes and documents the time he/she enters the store. The investigator will:
 - a. Select the items he/she has been instructed to purchase. (At the second compliance visit, if possible, a different cashier from the first compliance visit should be used for checkout). The investigator will tell the cashier before the items are rung up that he/she is a WIC participant and will be using WIC benefits. If the investigator is told he/she cannot purchase any unauthorized food items, she should return them and pick up the items listed on the WIC benefits or requested by the retailer.
 - b. The investigator will take the receipt and the items purchased, leave the store and complete the appropriate documentation.
 - c. Following the purchase, the investigator will complete the WIC Compliance Buy Report form. The receipt and any change from the transaction will be given to the State Agency. The food items purchased will be submitted to the State Agency or photographs of the food items.
4. All food items obtained during a compliance purchase will be photographed by the compliance investigator and then donated to a non-profit agency. A receipt, which is filed with the final report, will be obtained from the non-profit agency acknowledging the donation.
5. A letter will be sent to the retailer after each compliance visit, describing the results of the buy. Follow up training and education will be offered as necessary. The retailer will be informed of possible sanctions ~~points~~-being assigned if a pattern of violations continue to occur.

D. Number of Compliance Purchases

1. A failed transaction is one in which the compliance investigator is allowed to purchase unauthorized food items, non-food items, exchange cash, commit fraud, or any violation of the Montana WIC Retailer MOU. A successful transaction is one in which no violations occur.
2. Two failed transactions will result in the case being closed. Sanctions will be imposed.
3. Two successful transactions will result in the case being closed. Sanctions will not be imposed.
4. There will always be at least two compliance purchases made at a particular retailer unless the State Agency decides otherwise.
5. If there is one failed and one successful transaction, an additional compliance purchase will have to be made in order to determine if there have been two failed or two successful transactions.

6. In the instance of a failed transaction, retailers should be given 30 days from notification prior to an additional transaction to allow for training.

E. Follow-up Action

1. The State Agency will review the benefits used in the compliance purchase after redemption. A case file will be completed on the investigation by the State Agency. This will include:
 - a. any reports or complaints that were used to select the retailer for a compliance purchase; the investigation report; any receipts from the transaction; any document of prior warnings or retailer visits; the letter sent to the retailer notifying the retailer of the compliance purchases; any correspondence from the retailer regarding the case, including documentation of phone contact; any materials relating to a fair hearing if one is requested, including the decision of the hearing office.
 - b. The retailer will be notified by mail the results of the compliance investigation. If the retailer is under further investigation a letter will not be sent.
 - c. The Local Agency will receive a copy of the letter.

F. Adverse Actions

1. The retailer will be notified, by mail, the results of the completed investigation, violations found and the subsequent consequences. If notification would compromise an investigation a letter will not be sent.
2. The retailer can appeal any sanction or disqualification. Retailers must request a Fair Hearing from the Montana WIC Program. Retailers have thirty (30) days from the effective date of the adverse action within to appeal the Montana WIC Program's decision.

The Montana WIC Program will notify the Regional FNS Office of any WIC retailer suspended or disqualified. If the retailer involved is part of a "chain", the chain's regional/district manager will be notified. Disqualification from the Montana WIC Program may result in disqualification from SNAP

III. Inventory Audit

A. Definition

1. An inventory audit is defined as the comparison of reported WIC purchases against the retailer's inventory records for a specific period.
2. Inventory audits will not be announced in advance. The local agency will not be informed of inventory audits conducted in their area.

B. Criteria

1. The WIC Retailer Agreement, in Section VI: *Accounting, Auditing, Record Retention, Cost Principles and Access to Records*, required retailers to maintain inventory records and other records related to purchases for a minimum three-year period.

C. Procedure

1. A WIC staff member or a designated representative will visit the retailer to determine the total amount of stock available. This includes what is on the

shelves as well as in the storage area. This must occur on the first day of the inventory period.

2. On the last day of the inventory period, a WIC staff member or a designated representative will visit the retailer to calculate the total amount of stock available.
3. A WIC staff member or a designated representative will visit the retailer's offices. A request to view the invoice receipts will be made at that time. A calculation based on the beginning stock, the ending stock, and the amount of stock purchased according to the Invoice receipts will be compared to redemption records to verify the amount of stock presumed sold in WIC purchases.

D. Follow-up Action

1. The retailer will be notified, by certified mail, of the investigation, violations found and the subsequent consequences. A copy will be sent to the LARC.
2. The retailer can appeal any sanction or disqualification. Retailers must request a Fair Hearing from the Montana WIC Program. Retailers have thirty (30) days from the effective date of the adverse action within to appeal the Montana WIC Program's decision.
3. The Montana WIC Program will notify the Regional FNS Office of any WIC retailer disqualification. If the retailer involved is part of a "chain", the chain's regional/district manager will be notified.
4. Disqualification from the Montana WIC Program may result in disqualification from SNAP.

IV. Follow-Up Procedures

- A. The retailer will be notified, by certified mail, of the investigation, violations found and the subsequent consequences. If such notification would compromise an investigation of a violation that requires a pattern of violations, notice of a first violation will not be given. Failure to respond to this notification may result, in itself, in retailer sanction or disqualification.
- B. The retailer can appeal any sanction or disqualification. Retailers must request a Fair Hearing from the Montana WIC Program. Retailers have thirty (30) days from the effective date of the adverse action to appeal the Montana WIC Program's decision.
- C. The Montana WIC Program will notify the Regional FNS Office of any WIC retailer disqualification. If the retailer involved is part of a "chain", the chain's regional/district manager will be notified. The disqualification of a retailer due to a compliance investigation may be publicly advertised if it is determined this will be beneficial to the overall attitude toward the Montana WIC Program after all appeals have been exhausted or the time period for requesting a fair hearing has expired.
- D. Disqualification from the Montana WIC Program may result in disqualification from SNAP.
- E. If you wish to talk to someone from the Montana WIC Program about the compliance purchase, inventory audit or an administrative review, contact the Montana WIC Program at 1-800-433-4298. Retailers are encouraged to resolve disputes without an administrative review.

